

# Exhibit 5

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF OHIO  
3                   EASTERN DIVISION

4                   IN RE NATIONAL PRESCRIPTION      | MDL No. 2804  
5                   OPIATE LITIGATION                  | Case No. 17-MD-2804  
6                   APPLIES TO ALL CASES                | Hon. Dan A. Polster

7                   - - -  
8                   Wednesday, April 24, 2019  
9                   - - -

10                  CONFIDENTIAL - SUBJECT TO FURTHER

11                  CONFIDENTIALITY REVIEW  
12                  - - -

13                  Volume 2  
14  
15

16                  VIDEOTAPED DEPOSITION of MATTHEW PERRI, III,  
17                  BS Pharm, Ph.D., RPh, held at Jones Day,  
18                  1420 Peachtree Street, N.E., Suite 800, Atlanta,  
19                  Georgia, commencing at 8:35 a.m., on the above date,  
20                  before Susan D. Wasilewski, Registered Professional  
21                  Reporter, Certified Realtime Reporter and Certified  
22                  Realtime Captioner.

23                  GOLKOW LITIGATION SERVICES  
24                  877.370.3377 ph | 917.591.5672 fax  
25                  deps@golkow.com

1 but stick to some questions specific to my client.

2 A. Okay.

3 Q. And I'm -- am I correct, based on what I  
4 heard in your testimony so far, that you are not  
5 offering a Teva-specific opinion in your report or  
6 your testimony?

7 A. Yes.

8 Q. And similarly, you are not offering any  
9 Cephalon-specific opinion in your report or your  
10 testimony?

11 A. Yes.

12 Q. Okay. If we could turn -- we can go back to  
13 Exhibit 1 to your report, and if we could turn to  
14 Paragraph 165.

15 A. Okay.

16 Q. All right. This is under Subsection G,  
17 Defendants' Generic Marketing; is that correct?

18 A. Yes, it is.

19 Q. And it looks to me like Subsection G goes  
20 through Paragraph 182; is that correct?

21 A. Yes.

22 Q. And does this Section G, Paragraphs 165  
23 through 182, represent the entirety of the opinions  
24 you're giving on generic marketing, generics  
25 marketing?

1 MR. CHALOS: Object to the form.

2 A. I think so. I think the only other place  
3 there might be something related to marketing of  
4 generics would be in the section on the distribution  
5 channels, the supply chain earlier in the report,  
6 but it wouldn't be anything different. It just  
7 might be supplemental.

8 Q. Okay. And what do you mean, just so that we  
9 can be clear, when you refer to generic marketing?

10 A. So the marketing for brand name  
11 pharmaceuticals and marketing for generics, in my  
12 experience, is slightly different.

13 Q. Okay.

14 A. So I felt as though I should distinguish  
15 between the two in the report. So to the extent  
16 that different methods are used or different themes  
17 are used, I wanted to have a section that  
18 specifically related to the themes used with  
19 generics.

20 Q. Okay. And this is specific to generic  
21 prescription medicines, and in this case opioids,  
22 it's not generic in the sense of nonspecific or  
23 unbranded, it's generic prescription medicines and  
24 opioids?

25 A. Yes.

1 Q. All right. If we could turn to Paragraph  
2 173.

3 A. Okay.

4 Q. And the last sentence of that paragraph  
5 reads: The key marketing messages are focused on  
6 competitive prices and the assurance of consistent  
7 supply of quality generic medicines -- medications.

8 Did I read that correctly?

9 A. Yes, you did.

10 Q. Thank you. And I think you reference that  
11 just a minute ago, that those marketing messages are  
12 different than what you've seen with the branded  
13 marketing messages; is that correct?

14 A. Yes.

15 Q. Okay. And generic manufacturers do not  
16 promote the safety, efficacy, or benefits of their  
17 generic medications; is that correct?

18 MR. CHALOS: Object to the form.

19 A. I would agree that they generally don't do  
20 that, but if there is not -- I can't say that that's  
21 never done with respect to generics. And if we  
22 qualify that just a little bit, for example,  
23 sometimes with generics there are -- references are  
24 made to other products or comparable products, the  
25 branded product itself. So when that occurs, the

1 generic is sort of linking itself to the branded  
2 rather than just standing alone on its own. So with  
3 those qualifications -- generally, I completely  
4 agree with this, and this is what I see in the vast  
5 majority of the marketing messages associated with  
6 generics that I saw in the opioid matter, was that  
7 they focused on consistency of supply, pricing and  
8 quality of the products.

9 Q. Okay. Thank you. And turning to  
10 Paragraph 182 -- sorry, 181, but just above still on  
11 page 151.

12 A. Okay.

13 Q. Although we can read the sentence from the  
14 beginning, just go back to page 150. The sentence  
15 starting: "From a marketing and business  
16 perspective, for each generic manufacturer who  
17 decided to enter the opioid market, the profit  
18 potential outweighed any barriers or potential  
19 negative aspects of market entry, including concerns  
20 over the risks of selling opioids."

21 Did I read that correctly?

22 A. You did.

23 Q. And this calculus, that profits outweigh the  
24 risks and costs of a particular product, that  
25 calculus is not unique to a decision to enter a

1 market for opioids; is that correct?

2 A. Yes, that's true, the go/no go decision

3 described in this section on my report, it would be

4 true for any generic product being considered.

5 Q. Okay. And medications that are available by

6 prescription, as opposed to, say, over the counter,

7 that is because there is some degree of risks

8 associated with those medications, correct?

9 A. I think by definition, prescription

10 medications are more dangerous or more -- have more

11 potential for harms than over-the-continuer

12 medicines, yes.

13 Q. Okay. So a pharmaceutical manufacturer is

14 going to undergo a similar calculus when deciding to

15 manufacture or enter the market for any drug,

16 correct?

17 A. I think there would be a contemplative

18 decision that would be made and they would -- they'd

19 have criteria. Certainly I think the criteria for a

20 branded product may be different and certainly have

21 higher implications in terms of the amount of

22 investment that you've got to put into the product,

23 the amount of time that it would take to develop and

24 bring to market, but the overall "should we do this

25 or not" is going to be pretty similar at the end of

1       the day: Is this a market where we can find enough  
2       customers to satisfy a model that's going to  
3       generate the revenues we need to make to maximize  
4       shareholder wealth and stay in business?

5           Q. Okay. And you're not giving an opinion that  
6       there is anything wrong with selling generic opioid  
7       medications; is that correct?

8           A. No, I'm not giving an opinion that there is  
9       anything wrong with that.

10          Q. You're not giving an opinion that any  
11       generic manufacturers in this case engaged in some  
12       wrongful act; is that correct?

13            MR. CHALOS: Object to the form.

14          A. To the extent that, you know, opioid --  
15       generic opioid manufacturers are part of the opinion  
16       that, you know, the marketing expanded the opioid  
17       market, they would be implicated in that, I think,  
18       but I'm not making the assessment of right or wrong,  
19       only that the marketing resulted in this expansion.  
20       So I think the answer to your question is no, I'm  
21       not giving that opinion, but there are opinions that  
22       are related to that in the report just about the  
23       expansion of the market, and certainly generics did  
24       have a role in the expansion of the market.

25          Q. Okay. And generic opioids are subject to